

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 4998P021 (now 2060/30)	
<p style="text-align: center;">Certificate of Electronic Transmission Under 37 C.F.R. §1.8</p> <p>I hereby certify that this correspondence and any document referenced herein are being electronically filed with the USPTO via EFS-Web on January 4, 2010.</p> <p style="text-align: center;"><u>Marjorie Scariati</u> (Printed Name of Person Sending Correspondence)</p> <p style="text-align: center;"><u>/Marjorie Scariati/</u> (Signature)</p>	Application Number 10/728,681	Filed 12/05/2003	
	First Named Inventor Jose L. Encisco		
	Art Unit 2419	Examiner Joshua Y. Smith	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <p><input type="checkbox"/> applicant /inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input type="checkbox"/> attorney or agent of record. Registration number _____</p> <p><input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. <u>36,721</u></p> </div> <div style="width: 35%; text-align: center;"> <p>_____ /Karin L. Williams/ Signature</p> <p>_____ Karin L. Williams Typed or printed name</p> <p>_____ 908.518.7700 Telephone number</p> <p>_____ 1/04/2010 Date</p> </div> </div> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.			

Reasons for requesting pre-appellate review:

Claims 1-36 are pending. Claims 1, 12, 22 and 30 are independent.

Claims 1, 3, 4, 8, 12, 14, 15, 18, 22, 26, 30 and 33 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,175,552 of Parry et al. (hereinafter "Parry") in view of U.S. Patent No. 7,221,904 of Gavrilovich (hereinafter "Gavrilovich") and U.S. Patent No. 6,717,953 of Heuer (hereinafter "Heuer"). Applicants submit that these claims are not rendered obvious by the cited references for at least the following reasons.

Independent Claim 1 is directed to a switching module including a first gateway network element including a gateway ADM (Add/Drop Multiplexer) for a switching center that interconnects multiple networks, to terminate a synchronous data transmission ring to provide a communication path for signals between the synchronous data transmission ring and network locations external to the synchronous data transmission ring; a second gateway network element including a gateway ADM (Add/Drop Multiplexer), to terminate an additional synchronous data transmission ring to provide a *communication path for signals between the additional synchronous data transmission ring and network locations external to the additional synchronous data transmission ring*, where the *synchronous data transmission ring and the additional synchronous data transmission ring operate according to different protocols*; a central switching core to directly interconnect the first and second gateway network elements; and a management element to interconnect the first and second gateway network elements with a central management system, the management element to *natively communicate with the first and second gateway network elements and the central management system in their respective protocols*, the central management system to provide management signals to direct traffic flow on the synchronous data transmission rings.

Claims 1, 12, 22, and 30, the independent claims, each recite features directed to gateway network elements that terminate synchronous data transmission rings with gateway network elements that have **different protocols** including providing a communication path for signals between the synchronous data transmission rings and network locations external to the synchronous data transmission rings, and a management element that **natively communicates with the gateway network elements in their respective (different) protocols**.

As Applicants have understood, Parry discusses a telecommunications network configured for disaster recovery, where each element in a network ring includes a multiplexer that controls the timing of communication in the ring. Applicants note that the Office continues to rely on Parry as disclosing a switching module having gateway network elements. As a first matter, the Office Action, at last paragraph of page 2 to first paragraph of page 3, states that Parry shows: "a synchronous ring that incorporates a number of multiplexers (item 21) serving respective ports, and ..., a dormant master multiplexer (item 21b) is configured as a dormant master multiplexer is coupled to a disaster recovery interface point via a fibre link 26 (FIG. 2)," which the Office asserts is "substantively the same" as Applicants' claimed "first gateway network element," and Applicants' claimed "second gateway network element." Applicants again respectfully disagree.

Applicants' independent claims recite first and second gateway network elements *that terminate synchronous data transmission rings operating according to different protocols*. Even assuming only for the sake of argument that Parry's multiplexers show gateway network elements as asserted in the Office Action, Parry fails to disclose or suggest that its *multiplexers can terminate rings operating according to different protocols in the same switching module*. There is no evidence in the reference, and no technical reasoning in the Office Action to support the assertion that Parry can support rings of different protocols in a switching module.

Furthermore, the Office Action acknowledges defects in Parry, which the Office Action asserts are cured by the combination of the alleged teachings of Parry with the alleged teachings of Gavrilovich and Heuer. Applicants again respectfully disagree for at least the following reasons.

Even assuming for the sake of argument that Gavrilovich discloses what is asserted in the Office Action, while reserving the right to traverse the Office Action's characterization of the reference, Gavrilovich in combination with Heuer *still fails to cure the deficiencies of Parry* – i.e., gateway network elements that terminate synchronous data transmission rings with gateway network elements that have **different protocols** including providing a communication path for signals between the synchronous data transmission rings and network locations external to the synchronous data transmission rings, and a management element that **natively communicates with the gateway network elements in their respective (different) protocols**.

Heuer is cited as disclosing “separate networks operating according to different protocols, and a system that directs traffic flow, and natively communicating with network elements in their respective protocols” (see Office Action at last paragraph of page 5 -first paragraph of page 6, and in particular, lines 3-5 of page 6).

Applicants respectfully submit that Heuer fails to disclose synchronous transmission rings that *operate according to different protocols*. Rather, in Heuer’s “method for converting a SONET signal to an SDH signal” (title), “the multiplex units of the *SONET signals are converted* to corresponding multiplex units of the SDH signal, which are multiplexed into multiplex units of the additional hierarchy level” - and - “monitoring functions are applied to both signals in accordance with the SDH multiplex hierarchy”.

Heuer’s method does not teach or even suggest a “management element that natively communicates with the first and second gateway network elements and the central management system **in their respective different protocols**” – but rather expressly requires that the SONET signals “are converted”. As noted by the Examiner in the previous June 20, 2008 Office Action (page 22), Heuer teaches “that the SONET signals of the SONET ring *must be converted* since SONET signals are not usable by the SDH management system”.

As explained at least in paragraph [0027] of Applicant’s specification as filed, “integrated management 255 provides an integrated management bus that natively supports IP and/or OSI channels to/from the ADMs in system 300”, and “integrated management 255 supports multiple protocols, and can natively support the equipment in the rings terminated on ADMs 311 and 323, even though they are supplied by different vendors....[t]hus, if the specific protocol stacks employed by the rings terminated on ADMs 311 and 323 are known, integrated management 255 can be adapted to provide support for both.”.

Again, the principles of operation of each of the Parry and Heuer references would need to be significantly changed to work together, in contrast to what is stated in MPEP § 2143.01 (VI).

For at least the foregoing reasons, each of independent Claims 1, 12, 22 and 30, is patentable over the teachings of Parry, Gavrilovich and Heuer and reconsideration and withdrawal of the rejection is therefore respectfully requested.

In response to Applicants previous arguments, in the Final Action (page 30-page 31), the Examiner states that (with regard to Claim 1),:

“Parry already teaches ‘a management element to...communicate with the first and second gateway network elements and the central management system’ and ‘a central management system to provide management signals to...the synchronous data transmission rings’, and combining the STM-1 link and the simulation of the multiplex level that is missing in SONET in comparison with the SDH multiplex hierarchy of Heuer with the Master Multiplexer and the Dormant Master Multiplexer of Parry can allow the management system of Parry to communicate with each ring in its native protocol”.

Yet on page 4 of the Action (1st full paragraph), the Examiner acknowledges that:

“Parry fails to teach a network element including a gateway ADM (Add/Drop Multiplexer), to [[terminate an additional synchronous data transmission ring to (note this claim language was not recited by the Examiner)]] provide a *communication path for signals between a synchronous data transmission ring and network locations external to the additional synchronous data transmission ring*, where the *synchronous data transmission ring and the additional synchronous data transmission ring operate according to different protocols.....*and a system that directs traffic flow [[on the synchronous data transmission rings.]] and natively communicating with network elements in their respective protocols”.

Again Applicant respectfully submits that not only does Heuer *not teach or even* suggest the elements acknowledged to be missing from Parry, there is no teaching or suggestion in either reference to combine and/or modify the actual teachings of Parry and Heuer (the Examiner directs Applicant to Figures 1, 3 and 8, and also column 3, lines 48-65, column 4, line 64 to column 5, line 3, column 5, lines 32-64, column 6, lines 5-12, column 7, lines 29-31 of Heuer), in the manner proposed by the Examiner (i.e., to allegedly ‘convert a signal of a first synchronous digital communication system to a communication signal of a second communication system which requires only one controller for performing monitoring functions, which can be introduced into the system of Parry”).

As mentioned above, each of Applicants' independent claims recites features directed to gateway network elements that terminate synchronous data transmission rings with gateway network elements that have **different protocols** including providing a communication path for signals between the synchronous data transmission rings and network locations external to the synchronous data transmission rings, and a management element that **natively communicates with each of the gateway network elements in their respective protocols**.

Whether alone or in combination, the references fail to disclose or suggest at least one of these features from the independent claims. Thus, the cited references fail to support an obviousness rejection under MPEP § 2143 of these claims. The references therefore necessarily also fail to render obvious the remaining claims, which depend directly or indirectly from the independent claims discussed above.